



CITY OF TRINITY

WATERSHED PROTECTION ORDINANCE

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ARTICLE 100: AUTHORITY AND GENERAL REGULATIONS

Section 101. Intent.

The intent of the Water Supply Watershed Ordinance is to protect surface water supplies whose watersheds are located wholly or partially within the jurisdiction of the City of Trinity.

Section 102. Authority and Enactment.

Pursuant to authority given to municipalities in G.S. 160A Article 19, Planning and Regulation of Development, and G.S. 143-214.5 Water Supply and Watershed Protection, the Trinity City Council does hereby ordain and enact into law the following articles as the Watershed Protection Ordinance of the City of Trinity.

Section 103. Jurisdiction.

- (a) The provisions of this Ordinance shall apply in those areas within the corporate limits of The City of Trinity designated as Public Water Supply Watersheds by the N.C. Environmental Management Commission. This Ordinance shall be permanently kept on File in the offices of the City of Trinity.
- (b) The following Water Supply Watersheds designated by the N.C. Environmental Management Commission and the Trinity City Council are located within the City of Trinity:

Watershed	Classification	River Basin
Uwharrie River Lake Reese	WS-III	Yadkin

Section 104. Exceptions to Applicability.

- (a) Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulation pertaining thereto except an ordinance which these regulations specifically replace; however, the adoption of this Ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect in the City at the time of the adoption of this Ordinance that may be construed to impair or reduce the effectiveness of this Ordinance or to conflict with any of its provisions.
- (b) It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

- (c) Existing development, as defined in this ordinance, is not subject to the requirements of this Ordinance. Expansions to structures classified as existing development must meet the requirements of this Ordinance, however, the built-upon area of the existing development is not required to be included in the density calculations.
- (d) A pre-existing lot owned by an individual prior to the effective date of this Ordinance, regardless of whether or not a vested right has been established, may be developed for single family residential purposes without being subject to the restrictions of this Ordinance. However, this exemption is not applicable to multiple contiguous lots under single ownership. See Section 308(A)(3) (see page) regarding the recombination of existing lots.

Section 105. Criminal Penalties.

Any person violating any provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with NCGS 14-4. The maximum fine for each offense shall not exceed \$500.00. Each day that the violation continues shall constitute a separate offense.

Section 106. Remedies.

- (a) If any subdivision, development and/or land use is found to be in violation of this Ordinance, the Watershed Administrator may, in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of \$100.00, action or proceedings to restrain, correct, or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, the N.C. Environmental Management Commission may assess civil penalties in accordance with G.S. 143-215.6(a). Each day that the violation continues shall constitute a separate offense.
- (b) If the Watershed Administrator finds that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order the discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions. If a ruling of the Watershed Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment.

Section 107. Severability.

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of this Ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

Section 108. Effective Date.

This Ordinance shall take effect and be in force on August 27, 1997.

ARTICLE 200. SUBDIVISION REGULATIONS.

Section 201. General Provisions.

- (a) No subdivision plat of land within the Public Water Supply Watershed shall be filed or recorded by the Register of Deeds of Randolph County until it has been approved in accordance with the provisions of this Article. Likewise, the Clerk of Superior Court shall not order or direct the recording of a plat if the recording of such plat would be in conflict with this Article.
- (b) All applications to subdivide land in a designated water supply watershed shall comply with the application, review and mapping requirements of the City of Trinity Subdivision Ordinance.
- (c) If the City Administrator approves the application, such approval shall be indicated on both copies of the plat by the following certificate and signed by the City Clerk.

Certification of Runoff Control

I certify that this plan will control the runoff from a one-inch rainfall over the total drainage area and that the runoff control measures shown on this plan meet or exceed the guidelines in the NC Department of Environment and Natural Resources Stormwater Best Management Practices Manual issued by the Division of Water Quality Water Quality Section in April 1999.

Certificate of Approval for Recording, Minor Subdivision

I certify that the plat shown hereon complies with the Subdivision Regulations for the City of Trinity, North Carolina and any supplemental regulations that may apply and that such plat has been approved according to the procedures for approval of minor subdivisions.

Date

City Clerk

NOTICE: This property is located within a Public Water Supply Watershed – development restrictions may apply.

Certificate of Approval for Recording, Major Subdivision

This subdivision plat has been found to comply with the provisions of the Subdivision Ordinance of the City of Trinity, provided that it is recorded in the Office of the Register of Deeds within 60 days of final approval by the City Council.

NOTICE: This property is located within a Public Water Supply Watershed – development restrictions may apply.

Section 203. Subdivision Standards and Required Improvements.

- (a) Subdivisions in any designated drinking supply watershed shall comply with Article VI, General Requirements and Minimum Standards of Design of the City of Trinity Subdivision Ordinance as well as the requirements specified below.
- (b) All lots shall provide adequate building space in accordance with the development standards contained in Article 300. Lots which are smaller than the minimum required for residential lots may be developed using built upon area criteria in accordance with Article 300.
- (c) For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.
- (d) Storm Water Drainage Facilities. The application shall be accompanied by a description of the proposed method of providing storm water drainage. The subdivider shall provide a drainage system that diverts stormwater runoff away from surface waters and incorporates best management practices to minimize water quality impacts.
- (e) Erosion and Sedimentation Control. The application shall, where required, be accompanied by a written statement that a Sedimentation and Erosion Control Plan has been submitted to and approved by the N. C. Division of Land Quality.
- (f) Roads constructed in critical areas and watershed buffer areas. Where possible, roads should be located outside of critical areas and watershed buffer areas. Roads constructed within these areas shall be designed and constructed so to minimize their impact on water quality.

ARTICLE 300: DEVELOPMENT REGULATIONS

Section 301. Establishment of Watershed Overlay Districts.

To provide an additional layer of protection for drinking water supply watersheds, the following watershed overlay districts are established. Within each watershed shall be two tiers of control. The area nearest the water supply –critical area—shall have the higher level of regulation because proximity to the intake creates higher risk of contamination. The remaining part of the watershed-- balance of the watershed—shall have less restrictions because the greater distance from the point of intake lowers risk of contamination.

The following overlay districts shall apply to the watersheds in the City of Trinity:

*Uwharrie River (Lake Reece)

WS-III-BW (Balance of Watershed)

Section 302. Uwharrie River (Lake Reece) Watershed – Balance of Watershed WS-III-BW

- (a) Intent. In order to maintain a low to moderate land use intensity pattern, single family detached uses shall develop at a maximum of two (2) dwelling units per acre or twenty-four percent (24%) built upon area, except in the Trin-Thom Development District. However, in the absence of public sewer, all waste treatment must be permitted by the County Health Department, in which case the minimum lot size is 40,000 sq. ft.
 - (b) In addition, nonresidential and nonresidential and residential uses within the Trin-Thom Development Zoning District may occupy ten percent (10%) of the watershed with a seventy percent (70%) built-upon area when approved as a Special Intensity Allocation (SIA). All other residential uses may request a SIA; however any allocation shall not exceed thirty percent (30%). The City Council is authorized to approve SNIA's consistent with the provisions of this Ordinance. Projects must minimize built-upon surface area, direct stormwater away from surface waters and incorporate Best Management Practices to minimize water quality impacts. Non-discharging landfills and sludge application sites are allowed.
- (1) Permitted Uses:
 - (a) All uses permitted in the underlying zoning districts where the watershed is located, subject to the modifications below, unless specifically prohibited in (2) Prohibited Uses.
 - (b) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
 - (c) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).
- (2) Prohibited Uses:
 - (a) Discharging Landfills.
 - (b) Storage of toxic and hazardous materials unless a spill containment plan approved by the Watershed Administrator is implemented.
- (3) Density and Built-Upon Limits:
 - (a) Single Family Residential—development shall not exceed two (2) dwelling units per acre or twenty-four percent (24%) built upon area. In the absence of public sewer, however, all waste treatment must be permitted by the County Health Department, in which case the minimum lot size is 40,000 sq. ft.
 - (b) All Other Residential and Non-Residential, and Residential Development in the Trin-Thom Development Zoning District—shall not exceed twenty-four percent (24%) built-upon area on a project by project basis except that up to ten percent (10%) of the Balance of the Watershed may be developed for nonresidential and

residential uses in the Trin-Thom Development Zoning District uses to seventy percent (70%) built-upon area on a project by project basis. All other residential uses may request a SIA, however any allocation shall not exceed 30%. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

Projects must, to the maximum extent practical, minimize built-upon surface areas, direct storm water away from surface waters and incorporate Best Management Practices to minimize water quality impact. For the purpose of calculation built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

Section 303. Allocation of 10/70 Impervious Surface Area by City Council.

- (a) Allocations. The Trinity City Council may grant a SNIA of up to 70% (seventy percent) built upon area on all or part of the land area of a project.
- (b) Transfer of Acreage Between Local Governments. The Trinity City Council may transfer to or receive from another local government having jurisdiction in the respective watershed acreage to be allocated under the SNIA provision. The acreage shall be transferred by adoption of a joint resolution of the Trinity City Council and the elected body of the granting or receiving jurisdiction. The joint resolution shall be submitted to the Environmental Management Commission for review. If acreage is transferred to the City of Trinity from another jurisdiction, the Trinity City Council will designate at the time of receipt what portion of the acreage will be available for allocation and what portion of the acreage will be available for allocation and what portion, if any, will be held in reserve for future designation.

(1) Application and Submittal Requirements.

- (a) Application and Site Plan. Applications for a SNIA shall be submitted to the Watershed Administrator, and shall include a site plan in conformance with the development requirements found in the Trinity Zoning Ordinance. In addition to other site plan requirements, the following information shall be provided by the applicant: project timetable; anticipated addition to the property tax base, and, anticipated number of jobs created or retained. Planning staff may request additional information from the applicant in order to assess whether the application meets the criteria for approval.
- (b) Stormwater Controls Required for Large Developments. Developments granted a SNIA with existing and proposed built upon area which exceed two hundred thousand (200,000) square feet may utilize engineered stormwater controls which meet or exceed established best management stormwater quality/quantity requirements. The required site plan shall include the proposed location of the stormwater control structures if applicable.
- (c) Site Design Requirements. As required by the State of North Carolina under the Water Supply Protection Rules, each project granted a SNIA must to the maximum extent practicable minimize built-upon surface area, direct stormwater runoff away from surface waters and incorporate best management practices to

minimize water quality impacts. The Trinity City Council may impose site plan conditions in order to meet these requirements.

- (d) Staff Review. Planning staff will review the application and prepare a report with recommendations for the Trinity Planning & Zoning Board and Trinity City Council.
- (e) Planning Board Review. Prior to consideration by the Trinity City Council, the application will be reviewed by the Trinity Planning & Zoning Board that shall consider its merit and make a recommendation to the Trinity City Council.

(2) Criteria for Approval.

The Trinity City Council shall approve the application for a SNIA based upon the project meeting all the following criteria:

- (a) The proposed project is in conformance with the adopted comprehensive plans for the jurisdiction, including the recommendations of the Trinity Long Range Development Plan.
- (b) The proposed project land use and site design is compatible with the general character of the area and surrounding land uses.
- (c) The proposed project provides a significant economic benefit to the community by creating or retaining jobs, increasing the property tax base, or assisting an existing industry to grow and remain in the City of Trinity and Randolph County, or that the project meets an identified community need such as the provision of community facilities, retail business or personal services or affordable housing.
- (d) The proposed project does not pose a threat to the environment, especially water quality, and appropriate measures will be taken to minimize any potential negative environmental impacts.
- (e) The proposed project has good transportation access, including proximity to major roads and/or rail lines.

(4) Other Provisions.

- (a) Permits Following Approval of SNIA. If a SNIA request is approved by the Trinity City Council, the Watershed Administrator may grant watershed permits subject to the approved site plan and other requirements of this Article. All necessary permits must be obtained prior to the issuance of occupancy permits.
- (b) Resubmittal of Request. If a request is denied by the Trinity City Council, the applicant may resubmit the SNIA request for the same project no earlier than two (2) years following the date of original submission.
- (c) Expiration of Allocation. The SNIA shall expire if occupancy permits are not obtained for the project within two (2) years of approval of the SNIA by the

City Council. If occupancy permits are issued for a portion of the project within the two (2) year period, the SNIA will be extended for an additional one (1) year period. Applicants may resubmit requests for expired allocations.

- (d) Maintenance of Records. The Planning staff shall keep a record of all allocations under the SNIA provisions. The Watershed Administrator or his designee shall keep a record of all permits issued.

Section 304. Cluster Development.

Clustering of development is allowed in all Watershed Areas under the following conditions:

- (a) Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments in Section 302. Built-upon area or stormwater control requirements of the project shall not exceed that allowed for the critical area or balance of the watershed, whichever applies.
- (b) All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.
- (c) The remainder of the tract shall remain in a vegetated or natural state. Where the development has an incorporated property owners association, the title of the open space area shall be conveyed to the association for management. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

Section 305. Buffer Areas Required.

- (a) A minimum one hundred (100) foot vegetative buffer is required for all new development activities that exceed the low density option; otherwise, a minimum fifty (50) foot vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial stream bank or shoreline stabilization is permitted.
- (b) No new development is allowed in the buffer except for water dependent structures and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices.
- (c) Septic tank fields shall extend no closer than two hundred (200) feet from reservoirs, measured in the same manner. Lots abutting the reservoir shall measure two hundred (200) feet in width at the building line.

Section 306. Rules Governing the Interpretation of Watershed Area Boundaries.

Where uncertainty exists as to the boundaries of the watershed area, the following rules shall apply:

- (a) Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or centerlines thereof, such lines shall be construed to be said boundaries.
- (b) Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the City as evidence that one or more properties along these boundaries do not lie within the watershed area.
- (c) Where the watershed area boundaries lie at a scaled distance more than twenty-five (25) feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the watershed map.
- (d) Where the watershed area boundaries lie at a scaled distance of twenty-five (25) feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.
- (e) Where other uncertainty exists, the Watershed Administrator shall interpret the Watershed Map as to location of such boundaries. This decision may be appealed to the Board of Adjustment.

Section 307. Application of Regulations.

- (a) No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.
- (b) No area required for the purpose of complying with the provisions of this ordinance shall be included in the area required for another building.
- (c) Every residential building hereafter erected, moved or structurally altered shall be located on a lot which conforms to the regulations herein specified, except as permitted in Section 308.
- (d) If a use or class of use is not specifically indicated as being allowed in a watershed area, such use or class of use is prohibited.

Section 308. Existing Development.

Any existing development as defined in Article 600 (see page) may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this ordinance, however, the built-upon area of the existing development is not required to be included in the density calculations.

- (a) Vacant Lots. This category consists of vacant lots for which plats or deeds have been recorded in the office of the Register of Deeds of Randolph County. Lots may be used for any of the following:
 - (1) Where the lot area is below the minimum specified in this ordinance, the owner may apply for a variance which provides for compliance with the buffer requirement to the maximum extent practicable. The Watershed Administrator is authorized to issue a watershed protection permit.
 - (1) Where the buffer standard needs to be modified due to the shape and/or size of a residential or nonresidential lot, the owner may apply for a variance in order to obtain a watershed protection permit, provided the buffer requirement is complied with to the maximum extent practicable. The procedures of obtaining a minor or major variance are found in Section 506.
 - (2) Notwithstanding the foregoing, whenever two or more contiguous residential vacant lots of record are in single ownership at any time after the adoption of this ordinance and such lots individually have less area than the minimum requirements for residential purposes for the watershed area in which such lots are located, such lots shall be combined to create one or more lots that meet the standards of this ordinance, or if this is impossible, reduce to the extent possible the nonconformity of the lots.
- (b) Occupied Lots. This category consists of lots, occupied for residential purposes at the time of the adoption of this ordinance. These lots may continue to be used provided that whenever two or more adjoining lots of record, one of which is occupied, are in single ownership at any time after the adoption of this ordinance, and such lots individually or together have less area than the minimum requirements for residential purposes for the watershed area in which they are located, such lots shall be combined to create lots which meet the minimum size requirements or which minimizes the degree of nonconformity.
- (c) Uses of Land. This category consists of uses existing at the time of adoption of this ordinance where such use of land is not permitted to be established hereafter in the watershed area in which it is located. Such uses may be continued except as follows:
 - (1) When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.
 - (2) Such use of land shall be changed only to an allowed use.
 - (3) When such use ceases for a period of at least one year, it shall not be re-established.
- (d) Reconstruction of Buildings or Built-upon Areas. Any existing building or built-upon area not in conformance with the restrictions of this ordinance that has been damaged or destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost or bulk, exclusive of foundations and land

value may be repaired and/or reconstructed, except that there are no restrictions on single family residential development, provided:

- (1) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.
- (2) The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.

Section 309. Watershed Protection Permit.

- (a) Except where a single family residence is constructed on a lot deeded prior to the effective date of this ordinance, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a Watershed Protection Permit has been issued by the Watershed Administrator. No Watershed Protection Permit shall be issued except in conformity with the provisions of this ordinance.
- (b) Watershed Protection Permit applications shall be filed with the Watershed Administrator. The application shall include a completed application form and supporting documentation
- (c) deemed necessary by the Watershed Administrator.
- (d) Prior to issuance of a Watershed Protection Permit, the Watershed Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this ordinance.
- (e) A Watershed Protection Permit shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within twelve (12) months from the date of issuance.

Section 310. Building Permit Required.

After receiving a Watershed Protection Permit, a Building Permit shall be obtained from the Randolph County Inspections Department for construction or alteration of any building or structure pursuant to the procedures of the County Inspections Department.

Section 311. Watershed Protection Occupancy Permit.

- (a) The Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this ordinance have been met prior to the occupancy or use of a building hereafter erected, altered or moved and/or prior to the change of use of any building or land.
- (b) A Watershed Protection Occupancy Permit, either for the whole or part of a building, shall be applied for coincident with the application for a Watershed Protection Permit and shall be issued or denied within ten (10) days after the erection or structural alterations of the building.
- (c) When only a change in use of land or existing building occurs, the Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying

that all requirements of this ordinance have been met coincident with the Watershed Protection Permit.

- (d) If the Watershed Protection Occupancy Permit is denied, the Watershed Administrator shall notify the applicant in writing stating the reasons for denial.
- (e) No building or structure which has been erected, moved, or structurally altered may be occupied until the City Manager has approved and issued a Watershed Protection Occupancy Permit.

Article 400: HIGH DENSITY OPTION

Section 401: High Density Development Standards

Where new development exceeds either two dwelling units per acre or 24% built-upon area, engineered stormwater controls shall be used to control runoff from the first inch of rainfall and development shall not exceed 50% built-upon area.

High Density Development shall meet the requirements of this ordinance.

Section 402: High Density Development Permit Application

(A) A High Density Development Permit shall be required for new development exceeding the requirements of the low density option. Application for a High Density Development shall be addressed and submitted to the Watershed Review Board through the Watershed Administrator. Application for High Density Development Permit shall be made on the proper form and shall include the following information:

1. A completed High Density Development Permit Application signed by the owner of the property. The signature of the consulting engineer or other agent will be accepted on the application only if accompanied by a letter of authorization;
2. Two reproducible copies of the development plan within the drainage basin including the applicable information listed in Appendix A: Application Forms, Subdivision Plat Checklist and detailed information concerning built-upon area;
3. Two reproducible copies of the plans and specifications of the stormwater control structure consistent with section 703;
4. When required by law, written verification that a soil erosion and sedimentation control plan has been approved by the appropriate state or local agency;
5. Permit Application Fees consistent with Section 706.
6. Prior to taking final action on any application, the Board or the Watershed Administrator may provide an opportunity to public agencies affected by the development proposal to review and make recommendations on the application. However, failure of the agencies to submit their comments and recommendations shall not delay the Board's action within prescribed time limit.

(B) The Watershed Review Board shall either approve or disapprove each application for a High Density Development Permit based on the applicable criteria contained in this Ordinance. First consideration of a completed application shall be at the next regularly scheduled meeting of the Boards following its receipt. The Board shall take action on the application as its first consideration or within sixty-five (65) days of its first consideration.

1. If the Board approves the application based on its findings, such approval shall be indicated on the permit and both copies of the site plan and both copies of the plans and specifications of the stormwater control structure. A High Density Development Permit shall be issued after the applicant posts a performance bond acceptable security as required in Section 704(B)(1) and executes an Operation and Maintenance Agreement as required in Section 704(C). A copy of the permit and one copy of each set of plans shall be kept on file by the Watershed Administrator. The original permit and one copy of each set of plans shall be delivered to the applicant either by personal service or registered mail, return receipt requested.
2. If the Board disapproves the application based on its findings, the reasons for such action shall be stated in the minutes of the Board and presented to the applicant in writing wither by personal service or registered mail, return receipt requested. The applicant may make changes and submit a revised plan. All revisions shall be submitted, reviewed, and acted upon by the Board pursuant to the procedures of this section.

(C) The Watershed Review Board shall approve the application for a High Density Development Permit based upon the project meeting the following criteria:

1. The proposed project is in conformance with the adopted comprehensive plans for the jurisdiction, including the recommendations of the Trinity Long Range Development Plan.
2. The proposed project land use and site design is compatible with the general character of the area and surrounding land uses.
3. The proposed project provides a significant economic benefit to the community by creating or retaining jobs, increasing the property tax base, or assisting an existing industry to grow and remain in the City of Trinity and Randolph County, or that the project meets an identified community need such as the provision of community facilities, retail business or personal services or affordable housing.
4. The proposed project does not pose a threat to the environment, especially water quality, and appropriate measures will be taken to minimize any potential negative environmental impacts.
5. The proposed project has good transportation access, including proximity to major roads and/or rail lines.

Section 403. Stormwater Control Structures

- (A) All stormwater control structures shall be designed by a North Carolina registered professional with qualifications appropriate for the type of system required; these registered professionals are defined as professional engineers, landscape architect, to the extent that the design represents are defined as professional engineers, landscape architect, to the extent that the General Statutes, Chapter 89A allow and land surveyors, to the extent that the design represents incidental drainage within a subdivision, as provided in General Statutes 89 (C)-3(7).
- (B) All stormwater controls shall use wet detention as a primary treatment system unless alternative stormwater management measures, as outlined in Section 703(C), are used. Wet detention ponds shall be designed for specific pollutant removal according to modeling techniques approved by the North Carolina Division of Environmental Management. Specific requirements for these systems shall be in accordance with following design criteria:
1. Wet detention ponds shall be designed to remove 85% of total suspended solids in the permanent pool and storage runoff from a one inch rainfall from the site above the permanent pool;
 2. The designed runoff storage volume shall be above the permanent pool;
 3. The discharge rate from these systems following the one inch rainfall design storm shall be such that the runoff does not draw down to the permanent pool level in less than two (2) days and that the pond is drawn down to the permanent pool level within at least five (5) days;
 4. The mean permanent pool depth shall be a minimum of three (3) feet;
 5. The inlet structure shall be designed to minimize turbulence using baffles or other appropriate design features;
 6. (6)Vegetative filters shall be constructed for the overflow and discharge of all stormwater wet detention ponds and shall be at least thirty feet in length. The slope and width of the vegetative filter shall be determined so as to provide a non-erosive velocity of flow-through the filter for a 10-year, 24-hour storm with a 10-year, 1-hour intensity with a slope of five percent or less. Vegetation in the filter shall be natural vegetation, grasses or artificially planted wetland vegetation appropriate for the site characteristics;
- (C) Alternative stormwater management systems, consisting of one treatment option or a combination of treatment options, may be used. The design criteria for approval shall be 85 percent average annual removal of Total Suspended Solids. Also, the discharge rate shall meet one of the following criteria;

1. the discharge rate following the 1-inch design storm shall be such that the runoff draws down to the pre-storm design stage within five days, but not less than two days; or
 2. the post development peak discharge rate shall equal the predevelopment rate for the 1-year, 24-hour storm.
- (D) In addition to the vegetative filters required in Section 703 (B)(6), all land areas outside of the pond shall be provided with a ground cover sufficient to restrain erosion within thirty (3) days after any land disturbance. Upon completion of the stormwater control structure, a permanent ground cover shall be established and maintained as part of the maintenance agreement described in Section 705(C).
- (E) A description of the area containing the stormwater control structure shall be prepared and filed in consistent with Section 707 (A and B), as a separate deed with the Randolph County Register of Deeds along with any easements necessary for general access to the stormwater control structure. The deeded area shall include the stormwater control structure, vegetative filters, all pipes and water control structures, berms, dikes, etc., and sufficient area to perform inspections, maintenance, repairs, and reconstruction.
- (F) Qualifying areas of the stormwater control structure may be considered pervious when computing total built-upon area. However, if the structure is used to compute the percentage built-upon area for one site, it shall not be used to compute built-upon area for any other site or area.

Section 404. Posting of Financial Security Required

- (A) All new stormwater control structures shall be conditioned on the posting of adequate financial assurance for the purpose of maintenance, repairs, or reconstruction necessary for adequate performance of the stormwater control structures.
- (B) Financial assurance shall be in the form of the following:
1. Security Performance Bond or other security. The permit applicant shall obtain either a performance bond from a surety bonding company authorized to do business in North Carolina, an irrevocable letter of credit or other instrument readily convertible into cash at face value payable to the City of Trinity or placed in escrow with a financial institution designated as an official depository of the City of Trinity. The bond or other instrument shall be in an amount equal to 1.25 times the total cost of the stormwater control structure, as estimated by the applicant and approved by the Watershed Review Board. The total cost of the stormwater control structure shall include the value of all materials such as piping and other structures; seeding and soil stabilization; design and engineering; and grading, excavation, fill, etc. The cost shall not be prorated as part of a larger project, but rather under the assumption of an independent mobilization.

2. Cash or Equivalent Security Deposited After the Release of the Performance Bond. Consistent with Section 707 (C)(1), the permit applicant shall deposit with the City of Trinity either cash or other instrument approved by the Watershed Review Board that is readily convertible into cash at face value. The cash or security shall be in an amount equal to fifteen percent (15%) of the total cost of the stormwater control structure or the estimated cost of maintaining the stormwater control structure over a ten (10) year period, whichever is greater. The estimated cost of maintaining the stormwater control structure shall be consistent with the approved operation and maintenance plan or manual provided by the developer under Section 705(A). The amount shall be computed by estimating the maintenance cost for twenty-five (25) years and multiplying this amount by to fifths or 0.4.
- (C) Consistent with Section 702, the permit applicant shall enter into the binding Operation and Maintenance Agreement between the City and all interests in the development. Said Agreement shall require the owning entity to maintain, repair, and if necessary, reconstruct the stormwater control structure in the accordance with the operation management plan or manual provided by the developer. The Operation and Maintenance Agreement shall be filed with the Randolph County Register of Deeds by the Watershed Review Board.
- (D) Default under the performance bond or other security. Upon default of the permit applicant to complete and/or maintain the stormwater control structure as spelled out in the performance bond or other security, the City may obtain and use all or any portion of the funds necessary to complete the improvements based on an engineering estimate. The City shall return any funds not spent in completing the improvements to the owning entity.
- (E) Default under the cash security. Upon default of the owning entity to maintain, repair and, if necessary, reconstruct the stormwater control structure in accordance with the Operation and Maintenance Agreement, the City shall obtain and use all or any portion of the cash security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after exhausting all other reasonable remedies seeking the owning entity to comply with the terms and conditions of the Operation and Maintenance Agreement. The City shall not return any deposited cash funds.

Section 405. Maintenance and Upkeep

- (A) An operation and maintenance plan or manual shall be provided by the developer for each stormwater control structure, indicating what operation and maintenance actions are needed, what specific quantitative criteria will be used for determining when those actions are to be taken and, consistent with the Operation and Maintenance Agreement, who is responsible for those actions. The plan shall clearly indicate the steps that will be taken for restoring a stormwater control structure to design specifications if a failure occurs.
- (B) Landscaping and grounds management shall be the responsibility of the owning entity. However, vegetation shall not be established or allowed to mature to the

extent that the integrity of the control structure is diminished or threatened, or to the extent of interfering with any easement or access to the stormwater control structure.

- (C) Except for general landscaping and grounds management, the owning entity shall notify the Watershed Administrator prior to any repair or reconstruction of the stormwater control structure. All improvements shall be made consistent with the approval plans and specifications of the stormwater control structure and the operation and maintenance plan or manual. After notification by the owning entity, the Watershed Administrator shall inspect the completed improvements and shall inform the owning entity of any required additions, changes, or modifications and of the time period to complete said improvements. The Watershed Administrator may consult with an engineer or landscape architect (to the extent that the General Statutes, Chapter 89A, allow) designated by the Watershed Review Board.
- (D) Amendments to the plans and specifications of the stormwater control structure and/or the operation and maintenance plan or manual shall be approved by the Watershed Review Board. Proposed changes shall be prepared by a North Carolina registered professional engineer or landscape architect (to the extent that the General Statutes, Chapter 89A, allow) and submitted to and reviewed by the Watershed Administrator prior by the Watershed Review Board.
 - 1. If the Watershed Review Board approves the proposed changes, the owning entity of the stormwater control structure shall file sealed copies of the revisions with the Office of the Watershed Administrator.
 - 2. If the Watershed Review Board disapproves the changes, the proposal may be revised and resubmitted to the Watershed Review Board as a new proposal. If the proposal has not been revised and is essentially the same that already reviewed, it shall be returned to the applicant.
- (E) If the Watershed Review Board finds that the operation and maintenance plan or manual is inadequate for any reason, the Board shall notify the owning entity of any required changes and shall prepare and file copies of the revised agreement with the Randolph County Register of Deeds, the Office of the Watershed Administrator and the owning entity.

Section 406. Application and Inspection Fees

(A) Processing and inspection fees shall be submitted in the form of a check or money order made payable to the City of Trinity. Applications shall be returned if not accompanied by the required fee.

(B) A permit and inspection fee schedule, as approved by the City of Trinity City Council, shall be posted in the Office of the Watershed Administrator.

Section 407. Inspections and Release of the Performance Board

- (A) The stormwater control structure shall be inspected by the Watershed Administrator, after the owning entity notifies the Watershed Administrator that all work has been completed. At this inspection, the owning entity shall provide:
1. The signed deed, related easements and survey plat for the stormwater control structure ready for filing with the [county] Register of Deeds;
 2. A certification sealed by an engineer or landscape architect (to the extent that the General Statutes, Chapter 89A, allow) stating that the stormwater control structure is complete and consistent with the approved plans and specifications
- (B) The Watershed Administrator shall present the materials submitted by the developer and the inspection report and recommendations to the Watershed Review Board at its next regularly scheduled meeting.
1. If the Board approves the inspection report and accepts the certification, deed, and easements, the Board shall file the deed and easements with the [county] Register of Deeds, release up to seventy-five percent (75%) of the value of the performance bond or other security and issue a Watershed Protection Occupancy Permit for the stormwater control structure, consistent with Section 310.
 2. If deficiencies are found, the Board shall direct that improvements and inspections be made and/ or documents corrected and resubmitted to the Board.
- (C) No sooner than one year after the filing date of the deed, easements and maintenance agreement, the developer may petition the Watershed Review Board to release the remaining value of the performance bond or other security. Upon receipt of said petition, the Watershed Administrator shall inspect the stormwater control structure to determine whether the controls are performing as designed and intended. The Watershed Administrator shall present the petition, inspection report, and recommendations to the Watershed Review Board.
1. If the Board approves the report and accepts the petition, the developer shall deposit with the Watershed Review Board a cash amount equal to that described in Section 704(B)(2) after which, the Board shall release the performance bond or other security.
 2. If the Board does not accept the report and rejects the petition, the Board shall provide the developer with instructions to correct any deficiencies and all steps necessary for the release the performance bond or other security.
- (D) A Watershed Protection Occupancy Permit shall not be issued for any building within the permitted development until the Watershed Review Board has approved the stormwater control structure, as provided in Section 707(B).
- (E) All stormwater control structures shall be inspected at least once on an annual basis to determine whether the controls are performing as designed and intended. Records of inspection shall be maintained on forms approved or supplied by the North

Carolina Division of Environmental Management. Annual inspections shall begin within one year of filing date of the deed for the stormwater control structure.

- (F) In the event the Watershed Administrator discovers the need for corrective action or improvements, the Watershed Administrator shall notify the owning entity of the needed improvements and the date by which the corrective action is to be completed. All improvements shall be made consistent with the plans and specifications of the stormwater control structure and the operation maintenance plan or manual. After notification by the owning entity, the Watershed Administrator shall inspect and approve the completed improvements. The Watershed Administrator may consult with an engineer or landscape architect (to the extent that the General Statutes, Chapter 89A, allow) designated by the Watershed Review Board.
- (G) Appeals of any order, requirement, decision, or determination made by the Watershed Administrator may be made to and decided by the Watershed Review Board consistent with Section 502.

Section 408. Sanctions

In addition to the remedies described in Article 100 of this Ordinance and consistent with G.S. 160A-175, the Watershed Review Board may seek enforcement of this Ordinance through the City of Trinity City Council by assessing a civil penalty to be recovered by the City in a civil action in the nature of debt if the offender does not pay the penalty in a prescribed period of time after being cited for violation of the ordinance. Said violation may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. The court may issue an injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceeding, including the Rules of Civil Procedure in general and Rule 65 in particular. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, the defendant may be cited for contempt and the [county] [town] may execute the order of abatement. The City shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceeding and posting a bond for compliance with order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith. Enforcement of this ordinance may be by any one, all or a combination of the remedies authorized in this ordinance. Each day's continuing violation shall be a separate and distinct offence.

ARTICLE 500: PUBLIC HEALTH REGULATIONS

Section 501. Public Health, in General.

No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation

and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

Section 502. Abatement.

- (a) The Watershed Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.
- (b) The Watershed Administrator may consult with any public agency or official and request recommendations.
- (c) Where the Watershed Administrator finds a threat to water quality and the public health, safety and welfare, the Manager shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.

ARTICLE 600: ADMINISTRATION, ENFORCEMENT AND APPEALS

Section 601. Watershed Administrator and Duties Thereof.

The City of Trinity Watershed Administrator shall administer and enforce the provisions of this ordinance as follows:

- (a) The Watershed Administrator shall issue Watershed Protection Permits and Watershed Protection Occupancy Permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspections during regular office hours of the City Offices.
- (b) The City Clerk shall keep records of all amendments to the City's Water Supply Watershed Protection Ordinance and shall provide copies of all amendments upon adoption to the Supervisor of the Classification and Standards Group, Water Quality Section, Division of Environmental Management.
- (c) The Planning and Zoning Administrator shall keep records of the jurisdiction's utilization of the provision that a maximum of ten percent (10%) of the non-critical area of WS-III-BW watersheds may be developed with nonresidential development to a maximum of seventy percent (70%) built-upon surface area. Records for each watershed shall include the total acres of non-critical watershed area, total acres eligible to be developed under this option, total acres approved for this development option, and individual records for each project with the following information: location, acres, site plan, use, stormwater management plan as applicable and inventory of hazardous materials as applicable.
- (d) The Watershed Administrator is granted the authority to administer and enforce the provisions of this Ordinance, exercising in the fulfillment of the responsibility of full police power of the City. The Watershed Administrator, or his duly authorized representative, may enter any building, structure, or

premises, as provided by law, to perform any duty imposed upon them by this Ordinance.

- (e) The City Clerk shall keep a record of variances to the local Water Supply Watershed Protection Ordinance. The record of all variances granted by the City during the previous calendar year shall be submitted to the Supervisor of the Classification and Standards Group, Water Quality Section, Division of Environmental Management on or before January 1 of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

Section 602. Appeal from the Watershed Administrator.

Any order, requirement, decision or determination made by the Watershed Administrator may be appealed to
and decided by the Board of Adjustment.

Section 603. Changes and Amendments to the Watershed Protection Ordinance.

- (a) The Trinity City Council may, on its own motion or on petition, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restrictions as described herein.
- (b) No action shall be taken until the proposal has been submitted to the Board of Adjustment for review and recommendations. If no recommendation has been received from the Board of Adjustment within forty-five (45) days after submission of the proposal to the Chairman of the Board of Adjustments, the City Council may proceed as though a favorable report had been received.
- (c) Under no circumstances shall the City Council adopt such amendments, supplements or changes that would cause this ordinance to violate the watershed protection rules as adopted by the N.C. Environmental Management, N.C. Division of Environmental Health, and the N.C. Division of Community Assistance.

Section 604. Public Notice and Hearing Required

Before adopting or amending the ordinance, the City Council shall hold a public hearing on the proposed changes. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area.

Section 605. Powers and Duties of the Board of Adjustments

- (a) Administrative Review: the Board of Adjustment shall hear and decide appeals from any decision or determination made by the City Administrator in the enforcement of this ordinance.
- (b) Variances: The Board of Adjustment shall have the power to authorize, in specific cases, minor variances from the terms of this Ordinance as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this Ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done.

1. Applications for a variance shall be made on the proper form obtainable from the City Administrator and shall include information required by the City Administrator at a minimum
 - a. A site plan, drawn to scale, indicating the property lines of the parcel upon which the use is proposed; and existing or proposed structures; parking areas and other built-upon areas; surface water drainage.
 - b. A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Board of Adjustment in considering the application.
 - c. The City Clerk shall notify in writing each local government having jurisdiction in the watershed as well as any entity using the watershed for water consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the City Administrator prior to a decision by the Board of Adjustment. Such comments shall become part of the record of proceedings of the Board of Adjustment.
2. Before the Board of Adjustment may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based.
 - (a) That there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist;
 - (1) If he complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make use of his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of his property.
 - (2) The hardship results from the application of the ordinance to the property rather than from other factors such as deed restrictions or other hardship.
 - (3) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, with is different from that of neighboring property.
 - (4) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the Ordinance, or who purchases the property after the effective date of the Ordinance, and then come to the Board for relief.
 - (5) The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others and would not promote equal justice.

- (b) That the variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
 - (c) That in the granting the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.
- 3. In granting the variance, the Board may attach such conditions regarding the location, character, other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this ordinance. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use of property shall be in accordance with the approved site plan.
- 4. The Board of Adjustment shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.
- 5. A variance issued in accordance with this Section shall be considered a Watershed Protection Permit and shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within six (6) months from the date of decision.
- 6. If the applicant calls for the granting of a major variance, and if the Board of Adjustment decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include;
 - The variance application
 - The hearing notice
 - The evidence presented
 - Motions, offer of proof, objections to evidence, and rulings on them
 - Proposed finding and exceptions
 - The proposed decision, including all conditions proposed to be added to the permit

The preliminary record shall be sent to the Environmental Management Commission for its review as follows:

- (a) In the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (2) the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Board Adjustment. If the Commission approves the variance as proposed, the Boards shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

- (b) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure a reasonable return from or make a practical use of the property without the variance or (2) the variance, if granted, will result in a serious threat to the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Board of Adjustment. The Board shall prepare a final decision denying the variance as proposed.
- (c) Subdivision approval. See Article 200. (see page 3)
- (d) Public Health. See Article 400. (see page 13)

Section 506. Appeals from the Board of Adjustment.

Appeals from the Board of Adjustment must be filed with the Superior Court within 30 days from the date of the decisions of the Superior Court will be in the manner of certiorari.

ARTICLE 700: DEFINITIONS

Section 701. General Definitions.

Agricultural Use. The use of waters for stock watering, irrigation, and other farm purposes.

Animal Unit. A unit of measurement developed by the U.S. Environmental Protection Agency that is used to compare different types of animal operations.

Best Management Practices (BMP). A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

Buffer. An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Building. Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

Built-upon area. Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g. roads, parking lots, paths), recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

Cluster Development. Cluster development means the grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing stormwater runoff impacts. This term includes nonresidential development as well as

single-family residential and multi-family developments. For the purpose of this ordinance, planned unit developments and mixed use development are considered as cluster development.

Composting Facility. A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping is deposited.

Critical Area. The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

Customary Home Occupations. Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Provided further that no mechanical equipment is installed or used except as is normally used for domestic or professional purposes, and that not over twenty-five percent (25%) of the total floor space of any structure is used for the occupation. No home occupation shall be conducted in any accessory building except for the storage and service of a vehicle that is driven off site, such as a service repair truck, delivery truck, etc.

Development. Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

Discharging Landfill. A facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment any in which the leachate is treated on site and discharged to a receiving stream.

Dwelling Unit. A building, or portion thereof, providing complete and permanent living facilities for one family.

Existing Development. Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this ordinance based on at least one of the following criteria:

- (1) substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or
- (2) having an outstanding valid building permit as authorized by the General Statutes (G.S. 153A-344.1 and G.S. 160A-385.1), or
- (3) having an approved site specific or phased development plan as authorized by the General Statutes (G.S. 153A-344.1 and G.S. 160A-385.1).

Existing Lot (Lot of Record). A lot which is part of a subdivision, a plat of which has been

recorded in the Office of the Register of Deeds prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

Family. One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage or adoption, no such family shall contain over five persons, but further provided that domestic servants employed or living on the premises may be housed on the premises without being counted as a family or families.

Hazardous Material. Any substance listed as such in: SARA section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

Industrial Development. Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

Landfill. A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the N.C. General Statutes. For the purpose of this ordinance this term does not include composting facilities.

Lot. A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.

Major Variance. A variance from the minimum statewide watershed protection rules that results in any one or more of the following:

- (1) the relaxation, by a factor greater than ten (10) percent, of any management requirement under the low density option;
- (2) the relaxation, by a factor greater than five (5) percent, of any buffer, density or built-upon area requirement under the high density option;
- (3) any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system.

Minor Variance. A variance that does not qualify as a major variance.

Non-residential Development. All development other than residential development, agriculture and silviculture.

Plat. A map or plan of a parcel of land which is to be, or has been subdivided.

Residential Development. Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated

outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.

Residuals. Any solid or semi-solid waste generated from a wastewater treatment plant, water treatment plant or air pollution control facility permitted under the authority of the Environmental Management Commission.

Single Family Residential. Any development where: 1) no building contains more than one dwelling unit, 2) every dwelling unit is on a separate lot, and 3) where no lot contains more than one dwelling unit.

Street (Road). A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

Structure. Anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having permanent location on the land.

Subdivider. Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

Subdivision. All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all division of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this ordinance:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this ordinance;
- (2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets;
- (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the this ordinance;
- (5) The division of a tract into plots or lots used as a cemetery.

Toxic Substance. Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their off spring or other adverse health effects.

Variance. A permission to develop or use property granted by the Watershed Review Board relaxing or waiving a water supply watershed management requirement adopted by the

Environmental Management Commission that is incorporated into this ordinance.

Water Dependent Structure. Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

Watershed. The entire land area contributing surface drainage to a specific point (e.g. the water supply intake.)

Watershed Administrator. The City of Trinity Administrator who is responsible for administration and enforcement of this ordinance.

Section 702. Word Interpretation.

For the purpose of this ordinance, certain words shall be interpreted as follows:

Words in the present tense include the future tense.

Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

The word "person" includes a firm, association, corporation, trust, and company as well as an individual.

The word "structure" shall include the word "building."

The word "lot" shall include the words, "plot," "parcel," or "tract."

The word "shall" is always mandatory and not merely directory.

The word "will" is always mandatory and not merely directory.

NOTE: The definition is included as an example. The rules provide local governments with latitude in defining what is to be considered a major variance in the locality. The Environmental Management Commission (EMC) will monitor the definitions adopted by localities, and will review all annual reports to determine how localities are utilizing the variance procedure. The EMC will consider amending the rules to include specific conditions applicable to a major variance in the future.

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March 15, 2005

August 16, 2005

October 18, 2005

April 18, 2006